

Application No. 10/600,990
Reply to Restriction Requirement of June 16, 2008

Patent
Attorney Docket No. CU-3263

II. REMARKS/ARGUMENTS

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A. Summary of the Amendments

The application still contains 33 claims.

Claims 59, 60, 61 and 84 have been withdrawn from the application by the present amendment. Claims 59, 60, 61 and 84 are withdrawn as being directed to non-elected species in light of the absence of an allowable generic or linking claim. The Applicant expects that these claims will be re-introduced in the present application if a generic or linking claim is found to be allowable. The Applicant respectfully reserves the right to pursue any or all of the non-elected claims in one or more divisional applications that may be filed prior to the issuance to patent of the present application.

Claims 49-58, 77-83 and 85-96 are unchanged by the present amendment.

The Applicant submits that no new matter is being added to the present application through the present response.

B. Detailed Response to Restriction Requirement

In the Office Action dated June 16, 2008, the Examiner has indicated that restriction to one of the following species is required under 35 U.S.C. § 121:

Species A: directed to a measurement of the ripeness of the uterine cervix;

Species B: directed to a measurement indicative of the patient's blood type;

Species C: directed to a measurement indicative of the patient's disease status; and

Species D: directed to a measurement indicative of the patient's body temperature.

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In the Office Action, the Examiner further indicated that claims 49, 77, 86, 91 and 95 were generic.

In response to the Examiner's restriction requirement, the Applicant hereby elects Species A.

The Applicant submits that claims 49-55, 77-80, 85-87, 91, 95 and 96 are generic and that claims 56-58, 81-83, 88-90 and 92-94 encompass Species A. The Applicant therefore requests that examination of the aforementioned claims proceed in the present application.

For the Examiner's convenience, the Applicant submits below an indication of the species encompassed by each of the claims of the present application.

Species A, B, C and D:	Claims 49-55, 77-80, 85-87, 91, 95 and 96 (generic claims)
Species A:	Claims 56-58, 81-83, 88-90 and 92-94;
Species B:	Claim 59;
Species C:	Claim 60; and
Species D:	Claims 61 and 84

The election is being made with traverse.

The Applicant respectfully submits that the traversal is on the grounds that the Examiner has failed to establish that a search of the complete application would be an undue burden as required by M.P.E.P. § 803.

In particular, M.P.E.P. § 803 states that:

"If the search and examination of all the claims in an application can be made without serious burden, the Examiner must examine them on the merits, even though they include claims to independent or distinct inventions".

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The Applicant submits that a search of the entire application would not constitute an undue burden for the Examiner.

As such, the Applicant respectfully submits that the requirement of a serious burden on the Examiner if the restriction is not required is not satisfied and that the restriction requirement is therefore traversed. The Applicant respectfully requests that the species in groups A, B, C and D be jointly searched and examined.

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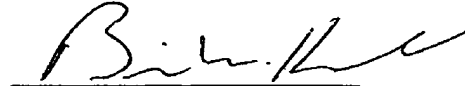
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CONCLUSION

The Applicant is of the view that claims 49-61 and 77 to 96 should be jointly considered. Reconsideration of the restriction requirement is respectfully requested.

If the claims of the application are not considered to be in full condition for allowance, for any reason, the Applicant respectfully requests the constructive assistance and suggestions of the Examiner in drafting one or more acceptable claims or in making constructive suggestions so that the application can be placed in allowable condition as soon as possible and without the need for further proceedings.

Respectfully submitted,



July 15, 2008

Date

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